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In re Application of
BRINKMANN, et al.
Application No.: 10/521,297
PCT No.: PCT/EP03/08085
Int. Filing Date: 23 July 2003
Priority Date: 24 July 2002
For: USE OF S1P RECEPTOR AGONISTS
IN HEART DISEASES

DECISION ON PETITION
UNDER 37 CFR 1.181

This is a decision on applicant's "Petition to Correct Filing Date/Response to Notice of Acceptance of Application" filed 14 July 2005 in the United States Patent and Trademark Office (USPTO). The request is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 14 January 2005, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a first preliminary amendment and an unexecuted declaration of the inventors.

On 17 May 2005, applicant filed an executed combined declaration and power of attorney and information disclosure statement.

On 21 June 2005, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903) indicating a 371 date of receipt of the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements as 14 January 2005.

On 14 July 2005, applicant filed the present petition claiming that the 371 requirements were satisfied on 17 May 2005.

DISCUSSION

Applicant has provided a legible copy of the receipt postcard which shows a USPTO date stamp, "JC10 Rec'd PCT/PTO 17 May 2005" and clearly identifies, "Executed Decl. - Fee \$130" as well as listing the serial number and attorney docket number. The evidence is sufficient to establish that the combined declaration and power of attorney for this application was received in the USPTO on 17 May 2005.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The application will be given an international filing date of 23 July 2003 under 35 U.S.C. 363 and a date of **17 May 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) mailed 21 June 2005 indicating a date of 14 January 2005 under 35 U.S.C. 371(c) is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) and a corrected filing receipt indicating the correct 371 date as detailed above.



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